

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

NO. 17-CR-20406

vs.

HON. PAUL D. BORMAN

D-4 VIRDELL KING,

Defendant.

/

SENTENCING MEMORANDUM OF THE UNITED STATES

I. Introduction

Virdell King was a ground-breaking senior official of the United Auto Workers union. She was the first African-American woman elected as the President of a UAW/Chrysler union local before going on to the senior levels of the UAW International. Having risen so high, King then betrayed the trust placed in her by the rank and file members of her union. She took thousands of dollars in illegal, prohibited payments for her own personal benefit from Fiat Chrysler Automobiles US LLC (“FCA” or “Fiat Chrysler”), and she facilitated illegal payments to other union officials, all while serving on the UAW’s negotiating committee for the collective bargaining agreement with FCA.

King has herself recognized the serious nature of her criminal conduct. In order to repair the damage done, King was among the first to step forward and take every action she could to rectify her crimes and mistakes. King's actions since cooperating have aided the government's investigation and prosecution of other individuals. The Court's sentence should recognize King's acceptance of responsibility and her early substantial assistance to the government in its ongoing investigation.

II. Analysis of Sentencing Factors

A. Sentencing Guideline Issues

1. Applicable Guideline Range

Other than the abuse of trust dispute noted below, the parties are in agreement as to the correct sentencing guideline range applicable in this case. If the abuse of trust adjustment applies, King's guideline range is 10 to 16 months.

2. Abuse of Position of Trust Adjustment

In the PSR, the Probation Officer found that a two-level adjustment should be applied to King's guideline range based on her abuse of a position of trust under Section 3B1.3. PSR ¶ 21. In the Rule 11 agreement, the government also sought application of this enhancement, with King retaining the right to argue the issue at sentencing. King Plea Agreement at 9.

In her sentencing papers, King argues that the enhancement should not apply because either she was simply following the orders of her superiors or because her personal expenditures using the National Training Center (“NTC”) card did not involve any managerial discretion. These arguments, however, ignore King’s positions in the UAW and at the NTC. The enhancement should apply to King because she was a high-level UAW official whose position of trust allowed her to take, to approve, and to facilitate prohibited and illegal Taft-Hartley payments. During her involvement in the conspiracy, King held one of the highest positions in the UAW’s FCA/Chrysler Department under UAW Vice President General Holiefield. She served in the International UAW because she had become the elected President of her own UAW local representing thousands of UAW members. In addition, by virtue of her UAW position in the UAW-Chrysler Department, King served as a member of the Joint Activities Board of the NTC, responsible for running the affairs of the NTC.

As one of the highest officials in the UAW’s Chrysler Department and at the NTC, King exercised professional and managerial discretion as characterized by positions of trust under Section 3B1.3, cmt. 1. As a senior UAW official, King had the trust of over 45,000 Fiat Chrysler UAW rank and file members and their families to act in their best interests. As a high-level union official, King used her UAW

position to personally benefit herself and to personally benefit other UAW officials, using her position of trust to facilitate tens of thousands of dollars in illegal Taft-Hartley payments. The enhancement should apply to King's breach and abuse of her position of trust towards the rank and file union members

B. Seriousness of the Offense and Just Punishment

King acknowledges the seriousness of her criminal offense. She accepted and facilitated illegal Taft-Hartley payments to herself and other senior UAW officials. Instead of being focused on zealous representation of the rank and file union members and their families, King was interested in buying clothes and lavish meals for herself and others.

Although King tries to argue that she was just following the orders of more senior UAW leaders like Holiefield, the reality is that King repeatedly made her own decisions to make thousands of dollars in personal purchases using money provided by an employer of her own union members. As a high-ranking UAW official and former local union President, King knew better. However, her greed got the best of her, and she chose to break the law. The fact that she was one among many other UAW officials to take advantage of their positions for their own personal gain does not minimize the seriousness of her own crime.

C. Deterrence

King is retired from the UAW, and she will be debarred from any further participation in union affairs. In addition, through her cooperation with the government, King has demonstrated recognition of her crimes and shown remorse. Under these circumstances, there is no reason to believe that she needs to be deterred from committing crimes in the future. That being said, union rank and file members and officials in Michigan and elsewhere are watching this case to see the nature of the punishment imposed. In this case, King's own actions in cooperating with the government's investigation were motivated in part by the specter of genuine punishment.

III. Conclusion

King took advantage of her position as a senior UAW official in order to take thousands of dollars in illegal payments from Fiat Chrysler. King used her position at the union and as a member of the conspiracy to funnel many thousands more to other senior UAW officials. It is clear, however, that King was not a leader of the conspiracy, even though she played an important role.

King was the first UAW official to step forward and take responsibility for her involvement in this criminal conspiracy. She willingly accepted responsibility and worked to take every effort to cooperate with the government's investigation.

Part of her reason for cooperating was an effort to reduce her own sentencing exposure. However, another motivation of King was to work to clean up the corruption present in the union harming rank and file members and their families. The Court should recognize King's acceptance of responsibility and cooperation in determining an appropriate sentence so as to achieve the goals of Section 3553(a).

MATTHEW SCHNEIDER
United States Attorney

s/David A. Gardey _____
DAVID A. GARDEY
ERIN S. SHAW
Assistant United States Attorneys
211 W. Fort Street, Suite 2001
Detroit, MI 48226
Phone: (313) 226-9591

Dated: November 6, 2018

CERTIFICATE OF SERVICE

I hereby certify that on November 6, 2018, I electronically filed the foregoing document with the Clerk of the Court using the ECF system, which will send notification of such filing to the following:

Counsel of Record for Virdell King

s/David A. Gardey _____
DAVID A. GARDEY
Assistant United States Attorney
211 W. Fort Street, Suite 2001
Detroit, MI 48226
Phone: (313) 226-9591
E-Mail: David.Gardey@usdoj.gov
Bar No. P48990